

41-400 DEPRIVATION

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41-400	DEPRIVATION OF PARENTAL SUPPORT OR CARE
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1. General

Deprivation of parental support or care is a required eligibility factor for CalWORKs. A child's deprivation is based on the status of his/her natural or adoptive parent or parents. There is no eligibility unless deprivation requirements are met.

2. Verification of Deprivation

Except for immediate need request approved on the basis of apparent eligibility, CalWORKs is not to be authorized until all of the requirements which establish deprivation are met and verified.

41-401	BASIS OF DEPRIVATION
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1. Types of Deprivation

A child is considered deprived of parental support or care if:

Either parent is deceased ;
Either parent is continually absent from the home in which the child is living;
Either parent is physically or mentally incapacitated ;
The principal earner (PE) is unemployed .

2. Multiple Deprivation Which Includes Unemployment

When more than one basis of deprivation exists for the eligible child(ren) (or SSI/SSP child) and includes deprivation based on the unemployment of a parent, the aid code for the entire case is '35'.

3. Adopted Child(ren)

Deprivation for an adopted child is based on the status of the adoptive parents rather than that of the natural parents. In a one-parent adoption, deprivation is based on the absence of the second adopted parent.

41-403	DEFINITION OF A PARENT
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1. Definition of a Parent

A “parent” is the natural or adoptive, married or unmarried, father or mother of a child.

2. Questionable Paternity

When there is a question regarding the paternity of the deprived child(ren), the situation will be referred to the District Attorney - Bureau of Child Support Enforcement for resolution. Refer to MPP 41-403 regarding the presumption of paternity or maternity.

41-405	TERMINATION OF DEPRIVATION
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When one deprivation ends (i.e., AP returns home or incapacity ends), the case must be evaluated for any other basis of deprivation that would continue eligibility. If the new deprivation is unemployment the PE must be determined. If the PE works over 100 hours in a 4 week period (and is expected to continue to work over 100 hours), and there is no other basis of deprivation, the case must be discontinued with timely notice.

41-420 PARENT IS DECEASED

1. Deprivation Due to Death

Deprivation exists when either parent of an eligible child or SSI/SSP child is deceased.

2. Verification of Death

Acceptable evidence of the death of a parent is:

A copy of the death certificate ;
An award letter from the Social Security Administration based on the death of a parent;
A newspaper account of the parent's death;
A third party verification , which clearly substantiates the death of the parent, from one of the following: <ul style="list-style-type: none">• A governmental agency; or• A public or private medical institution or facility;
Other reliable documentation presented by the applicant/recipient, from a credible source with direct knowledge of the circumstances surrounding the death. This evidence must be approved by the District Manager or Assistant District Manager;
A complete, verified 16-47 DSS (Request for Agency Verification).
NOTE: It is the applicant/recipients responsibility to provide acceptable verification (refer to MPP 40-105). If verification of death is not available, evaluate for deprivation based on absence (CPG 41-450).

1. Deprivation Due to Incapacity

Deprivation due to the physical or mental incapacity of either parent of an eligible child or SSI/SSP child, exists when the parent has a physical or mental illness, or condition that reduces substantially, or eliminates the parent's ability to support or care for the child; and

The **incapacity** is expected to last **at least 30 days** from the date the verification is provided to the ET; and

Deprivation exists because the incapacity:

- 1) Prevents the parent from working full time at a job in which he/she has customarily engaged, and from working full time on another job for which he/she is equipped by education, training or experience, or which can be learned by on-the-job training; or
- 2) Is the reason employers refuse to employ the parent for work the parent could do. This includes behavioral disorders which interfere with the securing and maintaining of employment; or
- 3) Prevents the parent from accomplishing as much on a job as a regular employee and is the reason the parent is paid on a reduced basis even though working full-time; or
- 4) Qualifies the parent and the parent is employed in a job which is rehabilitative, therapeutic or in a sheltered workshop not considered to be a full-time job; or
- 5) Reduces substantially or eliminates the parent's ability to care for the child; or

The parent is currently eligible to OASDI, SSI/SSP (due to illness), Worker's Compensation or SDI benefits which are based on the parent's disability or blindness.

NOTE: When evaluating incapacity for what seems to be a temporary disability, a licensed doctor may be reluctant to certify that an individual will be incapacitated for longer than a 30-day period. In these situations, if, after the first 30-day exemption; the doctor extends the incapacity certification another 30-days or more beyond the original 30-day period, and the recipient otherwise

meets the criteria for medical exemption, the ET may enter an exempt PEC with an expiration date 15-days beyond the expiration date of the new CW61. If the recipient does not submit an updated CW61 extending the incapacity certification beyond the ending date on the previous CW61, the ET must take action to discontinue the exempt status and refer the recipient to WtoW provided the recipient is not other wise exempt.

2. Verification of Incapacity

A. Disability Payments

A written statement from the agency authorizing the payments of OASDI, SSI/SSP, Worker's Compensation or SDI is acceptable verification of incapacity. This statement may be a benefit check, an award letter, 07-94 DSS, or MC 194. Case documentation will either be a copy of the award letter or other agency statement or a complete form 07-104 DSS which records all of the information that verifies eligibility to disability benefits. A Verification List is sufficient to document that a Medical Verification (CW61) was given to the client for pending verification.

NOTE: Receipt of Social Security or SSI/SSP because of age (65 years and older) does not establish deprivation under this basis. On MEDS, aid code "10" indicates linkage based upon age. Such persons may also be incapacitated, but will require other evidence for verification purposes. Disabled persons are coded "60", blind persons are coded "20".

B. Medical Statements

When the parent is not currently eligible to the disability payments of OASDI, SSI/SSP, Worker's Compensation or SDI, the CW 61 (Medical Report) form(s) or other written statement is acceptable proof of deprivation, provided the information received substantiates the incapacity. *If the CW61 Medical Report form(s) are sent to a provider to obtain information used to determine deprivation due to incapacity, they must be completed by a "licensed doctor or certified psychologist".*

NOTE: *If the CW 61 is used to obtain medical information relating to pregnancy, special diet, etc, workers must check "Other" and describe what is needed. Workers will need to request that the provider attach the medical verification to the form.*

A written statement can verify incapacity and must be obtained from a physician (i.e., medical doctors, excluding other practitioners such as chiropractors), a licensed or certified psychologist or an authorized staff

member with access to the applicant/recipients medical records. The statement must include all of the following:

A diagnosis of the condition;
Duration of the condition;
Extent to which employment is limited or care for the child is reduced or eliminated;
The next medical appointment date (if applicable); and
The name, address and phone number of the practitioner. (The signature is not mandated.)

C. Temporary Verbal Statement

When a written statement cannot be obtained due to reasons beyond the applicant/recipients control, a verbal statement from the physician, licensed or certified psychologist or authorized member of that person's staff may be used pending written verification. This verbal statement may be used for a maximum of 60 days. After that time period has ended, deprivation based on incapacity will end unless a written statement, such as that described in CPG 41-430.2.B above, is received (see CPG 41-430.C.3. below for review requirements).

1) Content of Verbal Statement

The narrative documenting the verbal statement must include all of the information required in the written statement described in CPG 41-430.2.B plus:

The date the statement was obtained;
The name of the person providing the information; and
The name of the ET who received the information

2) Case Responsibility

When incapacity is documented by a temporary verbal statement, the case remains in the district that authorized or continued CalWORKs until the written statement is received. When the written statement of ongoing incapacity has not been received by the ET or the parent has not cooperated in establishing eligibility under another basis of deprivation, CalWORKs will be discontinued at the end of the month in which the 60th day falls.

3. Review

Deprivation due to incapacity must be reestablished (and a new verification is required) at the following times:

Annual renewal when the duration of the incapacity is expected to last more than one year or is permanent; or

Thirty days prior to the expiration date of the incapacity when the duration of the incapacity is less than one year; or

Whenever there is a reason to believe that a change in incapacity status has occurred (i.e., review of the CA7 may indicate the incapacitated parent is now employed).
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NOTE: For situations in which the incapacity seems to be temporary and the verification provided by the licensed doctor extends the incapacity to 30-day intervals, see 41-430 Deprivation Due to Incapacity “**NOTE**” for review procedures.

All incapacity cases will be TIC'd for the required review action prior to the expected date of incapacity.

4. Incapacity Not Established

When the verification provided does not meet the requirements of this section or the incapacity is expected to be for less than 30 days, incapacity deprivation does not exist. When this situation occurs, the ET must evaluate the case to determine if another basis of deprivation can be established.

NOTE: Effective January 1, 1998, CalWORKs eliminates the labor force connection (i.e., having sufficient work quarters, training in GAIN/WIN or the deemed qualifications for UIB) and the prohibition of quitting or refusing a job or job training within the 30 day period prior to the receipt of aid. The 30 day unemployment requirement has been reduced to 4 weeks. The 100 hour rule for applicants remains.

1. Definitions

Unemployed Parent (U-Parent)	U-Parent refers to the natural or adoptive parent who lives in the same home as the child, who is the principal earner (PE) and who is not employed or is employed less than 100 hours per 4 week period. When the PE is employed less than 100 hours in a 4 week period they are not considered employed for purposes of determining unemployment as a deprivation.
Hours of employment	Hours of employment refers to the hours an individual spends providing a service or product, whether the individual is an employee or self-employed. Any hours spent working to acquire earned income, whether or not, the individual receives the income, are considered when determining the 100 hour limit.
Principal Earner (PE)	In a home where both parents of an eligible child are living, the PE is whichever parent earned the greater amount of income in the previous 24 months. When both parents have earned an identical amount, the parents shall designate the PE. Once the PE has been determined that parent will continue to be the PE for each consecutive month the family receives CalWORKs.

2. Establishing U-Parent Deprivation

When establishing unemployment as the basis of deprivation, the following requirements must be met:

- A. The U-Parent is unemployed or employed less than 100 hours per 4 week period, or, is employed more than 100 hours in a particular period but the work is intermittent and the excess over the 100 hours is temporary (i.e., hours were less than 100 in the two prior periods, and hours worked in the following period are expected to be less than 100).
- B. The U-Parent is the PE. (See CPG 41-440.1.)

- C. The PE shall be unemployed, or employed less than 100 hours in a 4 week period, for at least four weeks before he/she is eligible to CalWORKs. The four week period must end the day prior to the date of eligibility based on unemployment. If the first four week period contains more than 100 hours worked, continue to move both the four week period and date of eligibility forward by one day at a time, until there are less than 100 hours worked during the new four week period. NOTE: If the applicant/recipient continues to work over 100 hours, and there is no other deprivation the case must be closed with timely Notice.

EXAMPLE:

An applicant PE was laid off on April 13 and worked a total of 40 hours in the month of April and 40 hours per week in the month of March. The family applied for aid on April 14. The original 4 week period would be from March 16 through April 13. Since the PE worked 120 hours during this four week period, a new four week period needs to be identified.

March 16 through April 13 = 120 hours
March 17 through April 14 = 112 hours
March 18 through April 15 = 104 hours
March 19 through April 16 = 96 hours

The first four week period in which the PE worked less than 100 hours is from March 19 through April 16. U-parent deprivation is established effective April 17. The beginning date of aid for this family is April 17, if otherwise eligible.

D. UIB Application

The U-Parent whose unemployment establishes deprivation shall apply for Unemployment Insurance Benefits (UIB) when he/she appears eligible for UIB. This condition applies regardless of whether or not the U-Parent is exempt from work registration requirements. The U-Parent who applies for UIB shall:

Meet all of the conditions established by EDD for the payment of UIB (i.e., available for and looking for employment); and
Accept any UIB to which EDD determines he/she may be entitled.

E. Welfare-to-Work Requirement

When deprivation changes to unemployment, the previously absent/incapacitated parent must be referred to Welfare-to-Work, unless otherwise exempt (CPG 10-020).

3. Verification of Unemployment

In addition to the requirements listed under CPG 41-440.2, the following evidence is to be gathered before aid is granted (except in the case of apparent eligibility) in order to support the determination of deprivation based on the unemployment of a parent:

A third party statement or other verification (i.e., a bank statement) indicating how the family was meeting its needs (i.e., food, shelter and utilities) when there was no income received by the family within four weeks prior to the date of application; and
A statement from the last known employer (if available) when the U-Parent terminated his/her employment within four weeks prior to the date of application or claims to be underemployed (less than 100 hours per month). The statement must indicate: 1) The number of hours previously worked per month and, if the parent is still employed, the number of hours working per month and per week; and 2) When the parent is no longer employed, the date and reason for leaving the employment; and 3) Whether or not additional hours of work were offered or available when the parent terminated employment; and
Verification in the file must indicate if the U-Parent is exempt from Work First activities; and
If the U-Parent is exempt from Work First due to remoteness, a completed 16-5A (original) must be returned by the recipient after an appointment at EDD for Job Search registration ; and
Any other verification determined by the ET, with ES concurrence, which is necessary to establish deprivation due to unemployment.

4. Change of Deprivation

When the absent parent returns home and the child's deprivation changes to unemployment the PE is to be identified, and U-Parent deprivation must be evaluated to determine continuing eligibility for the family. If the family is not eligible for U-Parent deprivation, and there is no other basis of deprivation, the case must be discontinued with timely notice.

5. Ineligibility Due to Offer of Employment

CalWORKs will be denied when the U-Parent will be fully employed (100 hours or more) in the month of application.

6. Strikers

An AU is ineligible for CalWORKs, regardless of the basis for deprivation, when either parent in the home is on strike as of the last day of the month. (NOTE: The only exception is when the strike has been determined by the Division of Occupational Safety and Health (OSHA) to be for the correction of health and safety hazards or abnormally dangerous working conditions.)

7. Self-Employed

The self-employed applicant is fully employed when working 100 hours or more per month. The 100 hours includes the time utilized for:

Contracting for jobs; and/or
Making a product to be sold; and/or
Travel time to and from a job site.

41-450 CONTINUED ABSENCE OF A PARENT

1. Definition of Continued Absence

Continued absence exists when the natural or adoptive parent resides separately from the child. Continued absence exists when the parent remains in contact with the child. Regular or frequent visits with the child by the absent parent (AP) does not, in and of itself, prevent a determination that continued absence exists. Continued absence can also exist when the child lives with each parent for alternating periods of time. (See CPG 41-504)

Continued absence also exists when a parent who is a convicted offender is permitted to live at home while serving a court imposed sentence by performing unpaid public work or unpaid community service during the workday. (See CPG 41-450.6.D.) This parent may be potentially eligible to receive CalWORKs as an essential person.

Continued absence **does not** exist when the parent is away from the home on a temporary basis (i.e., visits, trips or temporary absence associated with current or prospective employment and normal absences associated with military personnel stationed away from home).

2. Circumstances That Meet the Definition of Continued Absence

The physical absence of the parent from the home and any one of the following circumstances will meet the definition of continued absence:

The parents are not married to each other and have never maintained a home together;
AP is not legally able to return to the home due to confinement in a penal or correctional facility;
AP has been deported, or voluntarily left the country due to the threat of or knowledge that he/she is subject to deportation;
AP has filed for or retained legal counsel for the purpose of filing for a dissolution, an annulment or a legal separation;
The court has issued an injunction forbidding the AP from visiting the other parent or child;
Both parents are physically absent from the home and their whereabouts are unknown;
The caretaker parent (CP) states the AP left the family. The CP must provide a signed, written statement that the absence constitutes "continued absence". (See CPG 41-450.4.)

3. Parent on Active Duty in the Uniformed Services

A parent who is away for the sole reason of performing active duty in the uniformed services of the United States is not considered absent, unless the applicant/recipient provides sufficient evidence (See CPG 41-450.4) that continued absence would exist regardless of the absent parents active duty. Uniformed Services are the U.S. Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration (NOAA), and the Public Health Service.

4. Evidence of Continued Absence

The written statement of the applicant/recipient on the application and the child support forms are considered sufficient evidence of the other parents continued absence. However, when any of the following conditions exist, the ET with ES concurrence, is to further investigate eligibility based on continued absence:

Verbal/written information provided by the applicant/recipient is contradictory, incomplete or is not consistent; or
Information provided by the applicant/recipient or others, including information in the previous case file, leads to a reasonable doubt that continued absence exists; or
Past history of non-compliance with the District Attorney Bureau of Child Support Enforcement (BCSE); or
Previous referrals to Public Assistance Fraud Investigators (PAFI) regarding the applicant/recipients continued eligibility or grant amount.
Situations which may require further investigation include, but are not limited to: <ul style="list-style-type: none"> • The parents are divorced or separated and live in close proximity to each other.

- The AP has daily contact with the children.
- The parents retain a joint bank account.
- The caretaker parent's (CP) expenses equal or exceed the AU's total income including CalWORKs.
- The CP states the family has had no income in the four week period before the date of application.
- The CP reports the AP left the home, after the CP learned no eligibility existed for the intact family.
- The AU has had frequent address changes (three or more in the last six months).
- The CP was previously excluded or is currently excluded from the AU due to failure to cooperate with any eligibility factor.

5. Further Investigation

When any of the above factors or other information cause the ET to doubt the continued absence of the AP, the ET is to take one or more of the following actions:

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| Make a referral to Public Assistance Fraud Division; and/or |
| Require a third party collateral statement verifying the absence of the AP (i.e., verification of incarceration); and/or |
| Require the CP to provide an additional sworn statement describing the situation in more detail than the information provided on the application; and/or |
| Obtain a release of information from the applicant/recipient to verify the composition of the AU with the landlord. |

6. Special Case Situations

A. Hypolite v. Carleson

The decision in the Hypolite v. Carleson case states that deprivation due to continued absence may exist when the child lives apart from both parents even though the parents are maintaining a home together. When making this determination, it must be determined whether or not the child and his/her parents are still an intact family. When there has not been a substantial disruption in family ties which caused the child to live apart from the parents, deprivation due to continued absence does not exist.

The following guidelines are provided as a means of assisting in the determination of whether or not a substantial disruption exists.

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| Serious disruption includes: <ul style="list-style-type: none"> • A CPS Social Worker or the courts are involved in the separation; • The whereabouts of both parents has been unknown for more than one month; |
|---|

Serious disruption does not include:

- Parents who are temporarily relocated for employment purposes;
- Parents or child is/are on vacation (including an extended vacation);
- The separation is for the purpose of attending school.

B. Caretaker Relatives

See CPG 41-503.

C. Temporary Absence

See CPG 41-504.

D. Alternatively-Sentenced Prisoner

Due to overcrowded jails, many counties are participating in early jail release or work release programs. These situations usually involve a parent who would otherwise be incarcerated, but who, as a condition of release, is required to participate in a work program full-time, usually under the supervision of a law enforcement agency. The parent is released to his/her own home during this period.

When an Alternatively-Sentenced Prisoner (ASP) returns to the home the ET is required to evaluate the case for continuing eligibility. Continued absence does exist when the ASP is in a work release program. As a condition of the work release program, the ASP is required to perform unpaid public work or unpaid community service during the work day. The children are deprived of the ASP parent's financial support since the parent cannot seek full-time employment. The ASP **must** be included in the AU and be Work First registered, unless exempt. Because the deprivation is absence, the child support paperwork is to be completed with a notation that the parent is a prisoner released to home.

When the ASP completes the work release program, the ET must reevaluate the case for another basis of deprivation as absence is no longer appropriate.

Definition Of Family Categories

1. Two Parent Families

A state only funded program for cases consisting of two-parent families with two non-disabled natural or adoptive parents of the same aided or SSI/SSP minor child living in the home, unless both parents are aided minors and neither is the head of household. (ACL 99-54) State participation codes are used for cases that meet this definition.

Note: Parents in the state only program who are sanctioned for failure to comply with CalWORKs work requirements are to remain coded as a “35” and are **not** to be changed to a “30” or “33” aid code.

2. “Zero” Parent Families

A “Zero” parent AU is one in which all parent(s) or caretaker(s) are excluded from or ineligible for cash assistance. This also includes sanctioned Cal-Learn families. This is both a federal and state aided program.

3. All (Other) Families

All remaining AUs, which have not been identified as either two-parent families, or zero parent families, will be included in the all (other) families aid program. This is a federally aided program.

Note: A comprehensive desk aid of CalWORKs program definitions and associated aid code categories are located in Appendix B-2.